

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the Tenth day of January in the year Two Thousand Twelve (In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

Smyrna School District 82 Monrovia Avenue Smyrna, DE 19977

Telephone Number: 302-653-8585 Fax Number: 302-653-3149

and the Contractor:

Lincoln, De 19960

(Name, legal status, address and other information)

Richard Y. Johnson & Sons P.O. Box 105

Telephone Number: 302-422-3732 Fax Number: 302-422-4696

for the following Project:

(Name, location and detailed description)

Smyrna High School - Mechanical & Miscellaneous Improvements Smyrna High School 500 Duck Creek Parkway Smyrna, Delaware 19977

Project involves renovations to existing mechanical systems. Existing mechanical units will be removed and replaced in multiple locations. New locations for units will be depicted on construction documents. Demolition required to gain access for removal of existing units is included in the scope of work. Mechanical units will also be added to pre-condition a portion of the school's HVAC system. Miscellaneous architectural improvements will be required to replace walls and doors removed during demolition. Additional architectural improvements will include interior and exterior door replacement as well as exterior improvements to a lobby entrance.

The Architect:

(Name, legal status, address and other information)

Fearn-Clendaniel Architects, Inc. 6 Larch Avenue

Suite 398

User Notes:

Wilmington, DE 19804

Telephone Number: 302-998-7615 Fax Number: 302-998-7685

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS
- 10 INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner. (Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

n/a

init.

- § 3.2 The Contract Time shall be measured from the date of commencement.
- § 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

The Contractor shall achieve Substantial Completion of the entire Work not later than August 15, 2012.

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on 12/02/2012, and is not for resale. (1498637125)

Portion of Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents. (Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

ARTICLE 4 CONTRACT SUM

- § 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Million Seventy Nine thousand Five Hundred Dollars (\$1,079,500.00), subject to additions and deductions as provided in the Contract Documents. This sum is based on the Base Bid amount of One Million Seventy Nine Thousand Five Hundred Dollars.
- § 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

None

§ 4.3 Unit prices, if any:

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

n/a

§ 4.4 Allowances included in the Contract Sum, if any: (Identify allowance and state exclusions, if any, from the allowance price.)

Allowance No. 1: Include an allowance of \$10,000.00 for modifications to sprinkler system piping revisions to install new mechanical systems in Structures Classroom and adjacent Mezzanine indicated on the contract documents.

ARTICLE 5 PAYMENTS

- § 5.1 PROGRESS PAYMENTS
- § 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.
- § 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:
- § 5.1.3 Provided that an Application for Payment is received by the Architect not later than the Twentieth day of a month, after the Architect has approved and issued a Certificate for Payment, payment shall be made by the Owner within 30 days after Owner's receipt of the Certificate for Payment . If an Application for Payment is received by the Architect after the application date fixed above, after the Architect has approved and issued a Certificate for Payment, payment shall be made by the Owner within 30 days after Owner's receipt of the Certificate for Payment. (Federal, state or local laws may require payment within a certain period of time.)

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- § 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.
- § 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.
- § 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
 - .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5.00 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201TM—2007, General Conditions of the Contract for Construction;
 - .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Five percent (5.00 %);
 - .3 Subtract the aggregate of previous payments made by the Owner; and
 - .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.
- § 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:
 - Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and (Section 9.8.5 of AIA Document A201-2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
 - .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201–2007.
- § 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

- § 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when
 - .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment; and
 - 2 a final Certificate for Payment has been issued by the Architect.
- § 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

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Upon receipt of all required closeout documentation, provided all other requirements of the Contract Documents have been met.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker. (If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[]	Arbitration pursuant to Section 15.4 of AIA Document A201-2007
[X]	Litigation in a court of competent jurisdiction
1 1	Other (Specify)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. (Insert rate of interest agreed upon, if any.)

Not to exceed twelve percent (12%) per annum beginning thirty (30) days after the "presentment" as specified.

§ 8.3 The Owner's representative:

(Name, address and other information)

Ms. Deborah D. Wicks 82 Monrovia Avenue Smyrna, DE 19977

User Notes:

init.

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Telephone Number: 302-653-8585 Fax Number: 302-653-3149 Mobile Number: 302-270-4458

Email Address: WicksDeborah@smyrna.k12.de.us

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§ 8.4 The Contractor's representative: (Name, address and other information)

Dean Y. Johnson P.O. Box 105 Lincoln, De 19960

Telephone Number: 302-422-3732 Fax Number: 302-422-4696 Mobile Number: 302-670-7475

Email Address: djohnson ryjohnson@comcast.net

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

Per Title 29

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

- § 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.
- § 9.1.1 The Agreement is this executed AIA Document A101-2007, Standard Form of Agreement Between Owner and Contractor.
- § 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction.
- § 9.1.3 The Supplementary and other Conditions of the Contract: Are those contained in the Project manual dated January 30, 2012

§ 9.1.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.) Are those listed in the Project manual dated January 30, 2012- See Exibit 'B'

§ 9.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.) Are those listed in the Project manual dated January 30, 2012- See Exibit 'C'

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
1	January 19, 2012	2
2	January 27, 2012	3
3	February 1, 2012	2

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

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8	9.1.7	Additional	documents, if any	forming part of the	Contract Documents:
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.1	AIA Document E201 TM _2007, Digital Data Protocol Exhibit, if completed by the parties, or the
	following:

n/a

Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Instructions to Bidders AIA document A701 -1997, Supplemental Instructions to Bidders, and Project Supplemental Instructions to Bidders

All drawing and sketches issued in Addenda.

Exhibit 'A'

Exhibit 'B'

Exhibit 'C'

INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

Per requirements indicated in specifications under General Requirements, Supplementary Conditions, Project Supplementary Conditions.

This Agreement entered into as of the day and year first written above.

OWNER (Signature)	CONTRACTOR (Sinkedidice)
Ms. Deborah D. Wicks, Superintendent	Dean Y. Johnson, Vice President
(Printed name and title)	(Printed name and title)

User Notes:

Exhibit A

Smyrna School District Smyrna High School

Mechanical & Miscellaneous Improvements

Bid No. SSD12001

1. General Conditions (AIA 201): Delete 15.4.4 and substitute the following:

15.4.4 Consolidation or Joinder

A controversy or claim arising out of or related to this Agreement, or the breach thereof, may include, by consolidation or joinder, the Architect and Surety. The objective is to permit the Owner to resolve any such controversy or claim in one litigation proceeding by permitting consolidation or joinder of the Owner, Contractor, Architect and Surety. The Owner shall include in its agreement with the Architect a provision permitting consolidation or joinder.

End of Exhibit A

Exhibit B

Smyrna School District

Smyrna High School

Mechanical & Miscellaneous Improvements Bid No. SSD12001

TECHNICAL SPECIFICATIONS

SECTION	TITLE
011000	Summary
012100	Allowances - Addenda No. 1
012300	Alternates
012600	Contract Modification Procedures
012900	Payment Procedures
013100	Project Management and Coordination
013200	Construction Progress Documentation
013233	Photographic Documentation
013300	Submittal Procedures
014000	Quality Requirements
014200	References
015000	Temporary Facilities and Controls
016000	Product Requirements
017300	Execution
017329	Cutting and Patching
017400	Warranties
017419	Construction Waste Management & Disposal
017700	Closeout Procedures
017823	Operation and Maintenance Data
017839	Project Record Documents
SECTION	Title

ARCHITECTURAL

024119	Selective Structure Demolition
042000	Unit Masonry
054000	Cold-formed Metal Framing
061053	Miscellaneous Rough Carpentry
074213	Metal Wall Panels
078413	Penetration Firestopping
078446	Fire Resistive Joint Systems
079200	Joint Sealants
081113	Hollow Metal Doors and Frames
084113	Aluminum Entrances and Storefronts
087100	Door Hardware - Addenda No.1
088000	Glazing
092216	Non-structural Metal Framing
092900	Gypsum Wall Board

095113	Acoustical Panel Ceilings
099123	Interior Painting

MECHANICAL

230000	General Requirements, Mechanical
230500	Common Work Results for HVAC
230513	Common Motor Requirements for HVAC Equipment
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230516	Expansion Fittings and Loops for HVAC Piping
230519	Meters and Gages for HVAC Piping
230523	General-Duty Valves for HVAC Piping
230529	Hangers and Supports for HVAC Piping and Equipment
230553	Identification for HVAC Piping and Equipment
230593	Testing, Adjusting, and Balancing for HVAC
230700	HVAC Insulation
230701	Exterior Duct Insulation
230800	Commissioning of HVAC
230900	Instrumentation and Control for HVAC
230950	Building Automation System (BAS) General
230951	BAS Basic Materials, Interface Devices, and Sensors
230952	BAS Operator Interfaces
230953	BAS Field Panels
230955	BAS Software and Programming
230959	BAS System Commissioning
230969	Variable Frequency Controllers
232114	Hydronic Piping
232300	Refrigerant Piping
232500	HVAC Water Treatment, Filtration & Cleaning of Piping System
233113	Metal Ducts
233116	Nonmetal Ducts
233300	Air Duct Accessories
233713	Diffusers, Registers, and Grilles
237433	Indoor and Outdoor Air Handling Units - Addenda No. 3
238127	Small Split-System Heating and Cooling
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ELECTRICAL

260000	General Requirements, Electrical
260500	Basic Materials and Methods, Electrical

End of Exhibit B

Exhibit C

Smyrna School District

Smyrna High School

Mechanical & Miscellaneous Improvements Bid No. SSD12001

LIST OF DRAWINGS:

SHEET NO. **DRAWING TITLE**

COVER T10-01 Title Sheet

ARCHITECTURAL

A10-01	First Floor Plan
A10-02	Partial First Floor - Cafeteria and Exterior Demo and New Doors
A70-01	Second Floor – Overall Reflected Ceiling Plan
A71-01	Second Floor - Partial "D" Reflected Ceiling Plan

MECHANICAL

M-0	Notes and Legends
MD-1	Mechanical - Demolition
MD-2	Mechanical - Demolition
M-1	Mechanical HVAC and Piping New Work
M-2	Mechanical HVAC and Piping New Work
M-3	Mechanical Piping- New Work
M-4	Mechanical HVAC and Piping New Work
M-5	Mechanical Schedules and Details
M-6	Mechanical Details
M-7	Mechanical Elevations

ELECTRICAL

E10-01	First and Second Floor Plans – Removal & New Work
E10-02	First Floor and Roof Plans – Removal & New Work
E10-03	Second Floor and Roof Plans - New Work

End of Exhibit C

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